

1 STEPHANIE M. HINDS (CABN 154284)
2 Acting United States Attorney

3 HALLIE HOFFMAN (CABN 210020)
4 Chief, Criminal Division

5 MOHIT GOURISARIA (CABN 320754)
6 Assistant United States Attorney

7 450 Golden Gate Avenue, Box 36055
8 San Francisco, California 94102-3495
9 Telephone: (415) 436-7063
10 FAX: (415) 436-7234
11 Mohit.Gourisaria@usdoj.gov

12 Attorneys for United States of America

13

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA,) CASE NO. CR 19-222 JD
18 Plaintiff,)
19 v.)
20 MIN JIN ZHAO,) **UNITED STATES' SENTENCING
21 a/k/a Michael Zhao) MEMORANDUM**
22 a/k/a Michael West,)
23 Defendant.)
24

25 Judge: Hon. James Donato
26 Date: November 15, 2021
27 Time: 10:30 a.m.

28 **I. INTRODUCTION**

29 Min Jin Zhao is a serial fraudster, a shapeshifter. He has a knack for ingratiating himself with
30 people, often those who share his own immigrant background. He pretends to become their confidante,
31 feigns friendship. Between 2014 and 2016, Zhao defrauded at least 9 victims in a sprawling real-estate
32 scam. He didn't cheat banks or companies or enterprises — he swindled ordinary, middle-class
33 individuals who had worked hard to save their money to purchase a home.

34 But that's hardly all. Zhao's real-estate fraud was discovered by the IRS, and the government

1 charged him with this case in 2019. For two years, he had six counts of fraud and money-laundering
 2 charges pending against him. At the same time that Zhao sought continuance after continuance from this
 3 Court under various pretenses, he — undeterred by the law and indifferent to the suffering of others —
 4 used his time on pretrial release to defraud at least two additional victims of their life-savings.

5 The egregiousness of the offense and well-founded concerns about recidivism lead the
 6 government to recommend a sentence of 50 months' imprisonment and 3 years of supervised release.

7 **II. DISCUSSION**

8 The Court must impose a sentence sufficient, but not greater than necessary, to reflect the
 9 seriousness of the offense, deter others from committing similar crimes, protect the public from the
 10 defendant, and rehabilitate the defendant. 18 U.S.C. § 3553(a)(2); *United States v. Carty*, 520 F.3d 984,
 11 991 (9th Cir. 2008). The statute sets forth several factors that the Court must consider in determining a
 12 just sentence: (1) the nature and circumstances of the offense and the defendant's history and
 13 characteristics; (2) the purposes of sentencing; (3) the kinds of sentences available; (4) the Guidelines
 14 range for sentences; (5) any pertinent policy statements; (6) the need to avoid unwarranted sentencing
 15 disparities and the need to provide restitution to any victims of the offense. 18 U.S.C. § 3553(a); *Carty*,
 16 520 F.3d at 991. The Guidelines should be the starting point and the initial benchmark. *Gall v. United*
 17 *States*, 552 U.S. 38, 49 (2007). Though the guidelines are not binding, they "reflect a rough
 18 approximation of sentences that might achieve section 3553(a)'s objectives." *Rita v. United States*, 551
 19 U.S. 338, 350 (2007).

20 **A. Guidelines Range**

21 The PSR correctly calculates Zhao's Criminal History Category as I.

22 Paragraph 7 of the parties' plea agreement calculates the total offense level as 23, grouping the
 23 wire fraud and money laundering charges as two separate counts. This yields a Guidelines range of 46 –
 24 57 months. Probation, on the other hand, groups the two counts together in a single group, for a total
 25 offense level of 20 and Guidelines range of 33 – 41 months.

26 Though there is proper legal basis for Probation's approach, there also is no prohibition against
 27 grouping the wire fraud and money laundering counts separately where the money laundering begins
 28

1 after the wire fraud has been completed. Indeed, the parties agreed to the Guidelines calculation in
 2 paragraph 7 of the plea agreement. The government makes its sentencing recommendation in accordance
 3 with that agreement.

4 **B. The Government Recommends 50 Months' Imprisonment**

5 Zhao is a serial fraudster. His conduct, which was despicable and intentional, has caused serious,
 6 lifelong harm to his victims.

7 **1. *Zhao Stole Money From Several Victims Who Trusted Him With Their Home
 8 Purchase.***

9 As set forth in the PSR and paragraph 2 of the parties' plea agreement filed July 12, 2021, Zhao
 10 defrauded at least nine individuals and couples, many of them immigrants like Zhao, out of hard-earned
 11 down payments meant for the purchase of homes in the San Francisco Bay Area. He misrepresented to
 12 his victims that a lender called Portfolio Consulting, Inc. ("Portfolio") offered a loan program that would
 13 allow the victims to make all-cash offers on their desired homes. Zhao did not disclose the fact that *he*
 14 owned and controlled Portfolio. After his victims sent approximately ten to twenty percent of the sale
 15 price to Portfolio, Zhao spent the funds on personal purchases or transferred the funds to another bank
 16 account he controlled. When victims sought their money back, Zhao lied to them that it was Portfolio
 17 (and not *he*) who had taken their money.

18 It is important to remember that Zhao was never destitute. He lived in fancy homes (in the Bay
 19 Area and in Palm Springs at the same time), frequently traveled abroad on holiday, indulged in classical
 20 music concerts and fine dining. In other words, Zhao comes from immense privilege; he has plentiful
 21 resources and elite education. These factors, which distinguish Zhao from the average convict who
 22 comes before this Court, should not detract from the severity of his criminal conduct. In statements
 23 submitted to Probation and to the Court, Zhao's victims describe the suffering that Zhao's has wrought.
 24 These include:

25 • **Victim C.D.** writes that his loss has led to depression and unemployment; he has had to seek
 26 therapy. He also explains how his relationship with his family has changed: "I became very
 27 aggressive and couldn't look my family in the eye out of shame for having lost the money for

1 our house.” The money Zhao stole from him was all he and his family had: “We lost our
 2 savings to this scheme. We spent my son’s college savings. My wife was so nervous she got
 3 sick. We were indebted to a lot of people, including the landlord. My children were affected
 4 by our depression, doing poorly at school. It was a nightmare in our family for years that
 5 affects us to this day.” He writes that because of Zhao he had days he “wanted to die,” that
 6 what Zhao did “was the worst moment” of his life.

- 7 • **Victim E.O.** too had to seek medical help for her anxiety and fear resulting from Zhao’s
 8 actions. She writes of the toll this has taken on her and her family: “My family and I have
 9 hard time to communicate with people after this crime. We were very embarrassed and
 10 stressed. We could not sleep for months we lost all our saving. Sometimes I wished to die.”
 11 In response to a question about how Zhao’s crime affected her livelihood, she asks: “Can you
 12 imagine your filling [sic] after lose your life time savings?”
- 13 • Zhao’s greed upended **Victim G.L.**’s life: “After the incident, we lost all our saving. This
 14 huge financial loss had a big impact to my marriage and the past couple years of living with
 15 my wife. The financial stress nearly brought my marriage to the end. We had countless of
 16 flights and arguments related to this crime. My wife was diagnosed with Depression shortly
 17 after the incident.” He and his wife had to move in with his parents, on whom they became
 18 financially dependent. He also writes this important reflection on the long-term damage
 19 caused by Zhao: “As first general [sic] of Asian American, I was always taught with good
 20 moral and value. I had fully trusted the defendant with all my saving, as he was referenced by
 21 my close friend. As you can imagine the feeling of betrayal by the defendant was traumatic.
 22 After the incident, I no longer trust anyone, not friends or family.”

23 These victims knew Zhao better than the Court or Probation or even his counsel ever will. And
 24 their words make clear that Zhao is no more than a greedy, entitled thief who used his victims’ life-
 25 savings — and trampled on their sense of trust and dignity — simply so that he could have an additional
 26 eight hundred thousand dollars to support his spendthrift lifestyle.

2. *Zhao Violated His Pretrial Release Conditions, Continuing to Scam New Individual Victims Whilst This Case Was Pending.*

Notably, the victims in this case expressed fear that Zhao will retaliate against them for speaking to the Court, and also predicted that given his nature Zhao would no doubt continue to defraud others. At least on the latter point, their words have already proven true more than once.

Whilst he remained on pretrial release in this case, Zhao continued to live his luxurious lifestyle on the backs of new victims. In March 2021, whilst claiming to be incompetent to stand trial in this case, Zhao attended a dinner with victim X.W. (a Chinese immigrant), her boyfriend and others at the Waldorf Astoria in Los Angeles. Zhao claimed (falsely) to be a Sony executive, and told X.W. that if she invested half a million dollars with Big Block Consulting, Inc (“BBC”), she would be an executive producer on BBC’s movie projects and receive two percent of BBC’s earnings. Based on his persistence and fraudulent representations, X.W. borrowed \$300,000 from her sister in China and wired it to Zhao. When Zhao sought additional money from X.W., the FBI consensually recorded a call between him, X.W., and X.W.’s boyfriend.¹ During the call, Zhao lied that Sony owned 55 percent of the next Spiderman film, and that he would also try to bring X.W.’s boyfriend into the film’s production.

Zhao’s fraud against X.W. is charged in a separate, pending criminal matter (*see* 21-cr-181 VC). In addition, since charging the new case against Zhao, the government has learnt of at least one additional victim (R.K.) whom Zhao defrauded over the course of several years, between 2017 and 2021.² Zhao was a close friend and confidante to R.K.; he stole her life-savings, over a million dollars.

Finally, the government is far from convinced that Zhao has learnt his lesson. With new victims X.W. and R.K., he proved to this Court that he is incapable, or perhaps simply uninterested, in mending his ways. Because Zhao respects neither his victims nor our criminal justice system, his sentence must not only disable him from stealing the hard-earned life-savings of future victims but also broadcast to the public that our courts won't tolerate economic crimes that leave individuals devastated.

¹ Though he utilizes a Mandarin translator for his court appearances in this matter, Zhao spoke clear and fluent English on the recorded call.

² Extensive discovery related to victim R.K. has been produced to Zhao's counsel in the 21-181 case. In addition, the government has informed Mr. Weinberg of victim R.K. and also provided him with a copy of the FBI's interview memorandum outlining the yet-to-be-charged crimes related to this victim.

1 **III. CONCLUSION**

2 With full consideration of the Sentencing Guidelines and the factors set forth in 18 U.S.C.
3 § 3553(a), the United States respectfully requests that the Court sentence Zhao to 50 months of
4 imprisonment and 3 years of supervised release (with the conditions recommended by U.S. Probation).
5 Also, in accordance with the plea agreement, the Court should order that at least \$791,401.26 in
6 restitution be paid to the victims.

7
8 DATED: November 1, 2021

Respectfully submitted,

9
10 STEPHANIE M. HINDS
11 Acting United States Attorney

12 /s/ *Mohit Gourisaria*
13 MOHIT GOURISARIA
14 Assistant United States Attorney